

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION (L) NO.12353 OF 2022
WITH
LEAVE PETITION NO.88 OF 2022
IN
COMMERCIAL IP SUIT (L) NO.12344 OF 2022**

Syncom Formulations (I) Ltd. ...Applicant/Plaintiff
V/S
Jitendra Khodake & Ors. ...Defendants

Mr. Alankar Kirpekar a/w Mr. Shekhar Bhagat and Mr. Rajas Panandikar i/by Shekhar Bhagat and Neelaja Kirpekar for Applicant/Plaintiff.

Mr. Abhijit Patil for Defendant Nos.1 and 2.

Ms. R. V. Rane, 2nd Assistant to the Court Receiver present.

CORAM : R. I. CHAGLA, J.

DATED : 13th JUNE, 2022.

P.C.

1. Heard Mr. Kirpekar, learned counsel appearing for the Applicant/Plaintiff. By ex-parte order dated 10th May 2022, passed by the vacation Court, ad-interim relief had been granted in terms of prayer clauses (a), (b) and (d) of the Interim Application. The Additional Special Receiver as well as Court Receiver has been

appointed. The Additional Special Receiver has submitted the report to the Court Receiver upon executing the commission on 28th May 2022 and the Court Receiver has filed Report on 9th June 2022. The ex-parte ad-interim order was in operation till 10th June 2022.

2. Today, the learned counsel for the Defendants makes an appearance.

3. The Court Receiver's Report No.166 of 2022, filed on 10th June 2022 is taken on record.

4. It is stated by Mr. Kirpekar that the documents seized by the Additional Special Receiver are referred to in the report of Court Receiver and which include the Defendant's counterfeit products. In the invoice dated 18th December, 2021 which has been found in the premises of the Defendants, copy of which has been annexed to the Court Receiver's Report, it is mentioned that in respect of the sale of Batch No.04291 which the Applicant/Plaintiff's have claimed are counterfeit products supplied by the Applicant/Plaintiff to the Defendants as sample in the year 2021, the medicinal product which is exported has been supplied by one Vedhshakti Generi and Generic Shoppe, Shop No.1 and 2, Opposite Police ground, Paragon Road, Chalisgaon, Maharashtra. He has submitted that necessary

disclosure of the said Vedhshakti Generi and Generic Shoppe as well as the particulars of supply and sale of the counterfeit products is required to be made by the Defendants.

5. In view thereof, the Defendants shall in the Affidavit-in-reply make the necessary disclosures. The Defendants shall file the Affidavit-in-reply within a period of four weeks from today.

6. In view of the Defendants making an appearance, Leave Petition is made absolute in terms of prayer clause (a). The cause of action in passing of is joined with the cause of action of infringement of trademark and copyright.

7. In view thereof, there shall be ad-interim relief in terms of prayer clause (c) which reads thus:-

(c). that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to restrain the Respondents by themselves through its Directors, Partners, Proprietor, Servants, Agents, Manufacturers, Stockiest and/or Exports and/or Importers and otherwise howsoever by an order of temporary injunction, from in any manner using impugned trade mark 'KVA' and/or any other mark or word which is/are deceptively similar in any manner whatsoever to the

Applicants' Trade Mark "KVA and/or any other packaging which is deceptively similar to the Applicant's packaging and artistic work as shown in Exhibit 'D' to the Plaint, so as to pass off and/or enable others to pass off Respondents' pharmaceutical preparation as and for that of Applicant;

8. The ex-parte ad-interim order dated 10th May 2022 and this ad-interim order shall continue till further orders. In the event of Defendant Nos.1 and 2 filing the Affidavit-in-reply within the said period of four weeks from today i.e. on or before 11th July, 2022, the Applicant/Plaintiff is at liberty to file Affidavit-in-rejoinder within a period of two weeks thereafter i.e. on or before 25th July, 2022.

9. The Interim Application shall be listed for hearing on 25th July 2022.

(R. I. CHAGLA, J.)